IN THE HIGH COURT OF UTTARANCHAL AT NANINITAL

WRIT PETITION NO: 452 OF 2006 (S/S)

1. Mohan Singh Rautela son of Late Shri Harak Singh Rautela, presently posted as Lab Assistant, Horticulture Research and Extensions Centre, Chaubattia, district Almora.
2. Smt.Janki Rana wife of Late Sri Narendra Singh Rana, presently posted as Junior Research Assistant, Horticulture Research and Extensions Centre, Chaubattia, district Almora.
3. Sri Jagdish Chandra Bhatt son of Sri Gopal Datt Bhatt, presently posted as Junior Research Assistant, Dr, S.L. Sah Vegetable Research Centre MaTELA, Almora.
4. Sri Mohan Chandra Kargeti son of Sri Baldev Prasad Kargeti, presently posted as Chemical Assistant, Horticulture Research and Extensions Centre, Sri Nagar, district Pauri Garhwal.
5. Sri Gagan Pant son of late Sri Hem Chandra Pant, presently posted as Supervisor, Horticulture Research and Extension Centre, Dhakrani, Dehradun.
6. Sri Hari Mohan Upadhayaya son of Govind Ballabh Upadhayaya presently posted as Lab Assistant, Horticulture Research and Extensions Centre, Chaubattia, district Almora.
7. Sri Chandan Singh Rautela son of Sri Diwan Singh Rautela, presently posted as Driver, Horticulture Research and Extension Centre, Jeolikote, district Nainital.

-----Petitioners.

Versus

1. State of Uttaranchal through Secretary, Horticulture, Government of Uttaranchal, Secretariat, Dehradun, Uttaranchal.
2. Director, Horticulture, Government of Uttaranchal, Dehradun.

3. Gkovind Ballabh Pant University of Agriculture & Technology, Pant Nagar, Udham Singh Nagar through Vice Chancellor.

-----Respondents

Sri Sudhansu Dhulia assisted by Sri Vipul Sharma, Adv, learned counsel for petitioners.
Sri Rajendra Dobhal, Advocate for the respondents.

HON'BLE RAJESH TANDON, J.

Heard Sri Vipul Sharma, Advocate for the petitioners and Sri Rajendra Dobhal, Standing Counsel for the respondents. Both the parties have submitted that the writ petition may be disposed at the admission stage.

By the present writ petition the petitioners have prayed for a writ of mandamus commanding the respondents to repatriate the petitioners to their parent department, i.e. Department of Horticulture Uttaranchal.

Briefly stated, the petitioners are the Junior Research Assistants, Chemical Assistant, Supervisor, Lab Assistant and Driver in the department of Horticulture of Food Processing Uttaranchal. In the year 2003 Government of Uttaranchal has sent the petitioners on deputation to Pandit Govind Ballabh Pant Agriculture University district Udham Singh Nagar vide order dated 2nd of July, 2003 and 29th of October, 2003. By sending the petitioners on deputation on 2nd July, 2003 certain norms were adopted in the meeting of 2nd July, 2003 and relevant factors are quoted below:

दिनॉक 2 जुलाई 2003 को सचिव महोदय अधान की अध्यक्षता एवं संयुक्त सचिव उधान निदे ाक तथा अनुसंधान शाखा के प्रतिनिधि मण्डल के साथ हुई बैठक में निम्न बिन्दुओं पर सहमति हुईः

1: शासनादे ा संख्या 827/216/प्र0स0व0ग्रा.0वि0/2001 देहरादून दिनॉक 12 मई 2001 के बिन्दू 3 में आं ाक सं ोधन किया जायेगा। ताकि स्पष्ट हो सके कि वर्तमान कार्मिकों की प्रोन्नति के अवसर तथा सेवा शर्ते यथावत बनी रहेगी। पदोन्नति को कोई भी पद समाप्त नहीं किया जायेगा।

2. उक्त शासनादे ा के संलग्न 2 में जो शोध के पद विभाग के अधीन रखे गये है उन पर केवल सीधा शाखा के कार्मिको को प्रोन्नति हेतु धारणाधिकार रखा जोयगा। पन्तनगर वि वविघालय के अधीन कार्य करते हुए भी उन्हें विभाग में प्रोन्नति दी जायेगी।

3. निदे ाक महोदय द्वारा बताया गया कि पन्तनगर वि वविघालय द्वारा प्रस्तावित शोध शाखा को ढ़ाचॉ अभी शासन द्वारा स्वीकृत नही किया गया है। शासन द्वारा यह आ वस्त किया गया कि किसी भी कार्यरत कर्मचारी को सरप्लस नहीं किया जायेगा। वि वविघालय द्वारा 99 पदों को सम्मिलित करते हुए पुनः ढाचा तैयार करने की कार्यवाही की जोयगी।

5. वि वविघालय के अधीन प्रतिनियुक्ति पर जाने वाले कार्मिक वापस पैतृक विभाग में आने को स्वतन्त्र होंगें। वापस आने पर उघान विभाग की अन्य गतिविधियों तथा आव यकतानुसार कार्य सम्पादित कराया जायेगा।

On the basis of the aforesaid norms, the order of deputation was passed. The order was passed sending the petitioners on deputation. Clause (4) is quoted below:

4. सम्बन्धित कार्मिकों के प्रोन्नति के विघमान अवसर यथावत रहेंगे विभाग द्वारा पदोन्नति प्रदान किये जाने के प चात भी वे वि वविघालय में ही कार्यरत रहेगे। इन कार्मिकों की प्रोन्नति के कोई भी पद विभाग द्वारा समाप्त नहीं किये जोयगे।

5. इन कार्मिकों की सेवा शर्तें उघान विभाग की संगत सेवा नियमावली के अनुसार ही व्यवहृत होगे।

As will appear from the aforesaid order of deputation the petitioners have every right of repatriation in the parent department. The petitioners have given the details of the joining in the department of Horticultures on different posts. The said classification is given in para 4 of the writ petition. The same are quoted below:

"Petitioner No. Date of appointment Name of the post presently the petitioners working

Petitioner no.1.	07.01.1991	Lab Assistant.
Petitioner no.2.	09.09.1984	Junior Research Assistant.
Petitioner no.3.	24.01.1991.	junior Research Assistant.
Petitioner no.4.	10.07.1972.	Chemical Assistant.
Petitioner no.5.	23.05.1997.	Supervisor.
Petitioner no.6.	17.01.1991.	Lab Assistant.
Petitioner no.7.	03.08.1993.	Driver.

The petitioners have made their grievances by way of representation dated 27.02.2006. In paragraph No. 4 of their representation they have

stated that in clause (4) of the Government order the promotional avenue was open but the department is not taking any action for promoting the petitioners and, as such, job of the petitioners by remaining in deputation has prejudiced the promotion of the petitioners.

Petitioners have submitted that in accordance with condition No. 5 as settled between the department and the petitioners dated 2nd of July, 2003 the promotional avenue of the petitioners will not be affected. Petitioners have further submitted that said representation has not been decided.

Further, the grievance of the petitioners are that advertisemenst has been made by G.B. Pant Agriculture University for filling the posts. Sri Rajendra Dobhal has submitted that so far as the department of the petitioners, i.e. Horticulture and Food Processing, the posts are not meant of parent department.

In view of the aforesaid averements, the promotional avenue of the petitioners will not be prejudiced and I hope and trust that in view of the order passed sending the petitioners on deputation the promotional avenue of the petitioners will not be effected by the respondents.

In the meantime the representations filed by the petitioners for sending the petitioners to the parent department may be considered and appropriate orders may be passed by the respondent No. 1. However, it is made clear that the conditions mentioned in the order dated 29.10.2003 and 2nd July, 2003 will remain alive for future

promotions of the petitioners. The respondents may take suitable action in deciding the representations of the petitioners by sending the petitioners to the parent department and making an avenue for future promotions in accordance with the agreement dated 2nd July, 2003 and the order passed on 29.10.2003. The respondents shall in the meantime take into consideration that the promotional avenue of the petitioners are not effected by any recruitment. The respondents are directed to decide the representations of the petitioners within a period of six weeks from the date of production of certified copy of the order.

In view of the above observations, the writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

30.03.2006
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